

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTIONETTE Y. SULLIVAN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 2:24-cv-00016-CSK

ORDER ON PARTIES' CROSS MOTIONS  
FOR SUMMARY JUDGMENT

(ECF Nos. 16, 17, 19)

Plaintiff Antionette Y. Sullivan seeks judicial review of a final decision by Defendant Commissioner of Social Security denying an application for supplemental security income.<sup>1</sup> In her summary judgment motions, Plaintiff challenges the accuracy of medical records contained in the Certified Administrative Record, but does not identify any error made by the Administrative Law Judge (ALJ). The Commissioner opposes Plaintiff's motion, filed a cross-motion for summary judgment, and seeks affirmance.

For the reasons below, Plaintiff's motion is DENIED and the Commissioner's cross-motion is GRANTED.

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<sup>1</sup> This action was referred to the undersigned under Local Rule 302(c)(15) and proceeds on the consent of all parties. (ECF Nos. 5, 9, 10.)

## I. SOCIAL SECURITY CASES: FRAMEWORK & FIVE-STEP ANALYSIS

The Social Security Act provides benefits for qualifying individuals unable to “engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment[.]” 42 U.S.C. § 423(d)(1)(a). When an individual seeks Social Security disability benefits (the “claimant”), the process for administratively reviewing the request can consist of several stages, including: (1) an initial determination by the Social Security Administration; (2) reconsideration; (3) a hearing before an Administrative Law Judge (“ALJ”); and (4) review of the ALJ’s determination by the Social Security Appeals Council. 20 C.F.R. § 416.1400(a).

At the hearing stage, the ALJ is to hear testimony from the claimant and other witnesses, accept into evidence relevant documents, and issue a written decision based on a preponderance of the evidence in the record. 20 C.F.R. § 416.1429. In evaluating a claimant’s eligibility, the ALJ is to apply the following five-step analysis:

**Step One:** Is the claimant engaged in substantial gainful activity? If yes, the claimant is not disabled. If no, proceed to step two.

**Step Two:** Does the claimant have a “severe” impairment? If no, the claimant is not disabled. If yes, proceed to step three.

**Step Three:** Does the claimant’s combination of impairments meet or equal those listed in 20 C.F.R., Pt. 404, Subpt. P, App. 1 (the “Listings”)? If yes, the claimant is disabled. If no, proceed to step four.

**Step Four:** Is the claimant capable of performing past relevant work? If yes, the claimant is not disabled. If no, proceed to step five.

**Step Five:** Does the claimant have the residual functional capacity to perform any other work? If yes, the claimant is not disabled. If no, the claimant is disabled.

*Lester v. Chater*, 81 F.3d 821, 828 n.5 (9th Cir. 1995); 20 C.F.R. § 416.920(a)(4). The burden of proof rests with the claimant through step four, and with the Commissioner at step five. *Ford v. Saul*, 950 F.3d 1141, 1148 (9th Cir. 2020). If the ALJ finds a claimant not disabled, and the Social Security Appeals Council declines review, the ALJ’s decision becomes the final decision of the Commissioner. *Brewes v. Comm’r.*, 682 F.3d 1157, 1161-62 (9th Cir. 2012) (noting the Appeals Council’s denial of review is a non-final agency action). At that point, the claimant may seek judicial review of the

1 Commissioner's final decision by a federal district court. 42 U.S.C. § 405(g).

2 The district court may enter a judgment affirming, modifying, or reversing the final  
3 decision of the Commissioner. *Id.* ("Sentence Four" of § 405(g)). In seeking judicial  
4 review, the plaintiff is responsible for raising points of error, and the Ninth Circuit has  
5 repeatedly admonished that the court cannot manufacture arguments for the plaintiff.  
6 *See Mata v. Colvin*, 2014 WL 5472784, at \*4 (E.D. Cal, Oct. 28, 2014) (citing *Indep.*  
7 *Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (stating that the court  
8 should "review only issues which are argued specifically and distinctly," and noting a  
9 party who fails to raise and explain a claim of error waives it).

10 A district court may reverse the Commissioner's denial of benefits only if the ALJ's  
11 decision contains legal error or is unsupported by substantial evidence. *Ford*, 950 F.3d.  
12 at 1154. Substantial evidence is "more than a mere scintilla" but "less than a  
13 preponderance," i.e., "such relevant evidence as a reasonable mind might accept as  
14 adequate to support a conclusion." *Id.* (citations omitted). The court reviews evidence in  
15 the record that both supports and detracts from the ALJ's conclusion, but may not affirm  
16 on a ground upon which the ALJ did not rely. *Luther v. Berryhill*, 891 F.3d 872, 875 (9th  
17 Cir. 2018). The ALJ is responsible for resolving issues of credibility, conflicts in  
18 testimony, and ambiguities in the record. *Ford*, 950 F.3d at 1154. The ALJ's decision  
19 must be upheld where the evidence is susceptible to more than one rational  
20 interpretation, or where any error is harmless. *Id.*

## 21 **II. FACTUAL BACKGROUND AND ALJ'S FIVE-STEP ANALYSIS**

22 On October 19, 2020, Plaintiff applied for supplemental security income under  
23 Title XVI of the Social Security Act, alleging she has been unable to work since July 1,  
24 2020. Administrative Transcript ("AT") 76-77, 102, 134-35 (available at ECF No. 11).  
25 Plaintiff claimed disability due to "[b]ipolar; back pain; spasms in [her] back got hit by a  
26 car; right leg broken in half; [and] depression." *Id.* at 77. Plaintiff's claim was denied  
27 initially and upon reconsideration, and Plaintiff sought review before an ALJ. *Id.* at 18.  
28 Plaintiff appeared with counsel at a July 29, 2022 hearing before an ALJ, where Plaintiff

1 testified about her impairments and a vocational expert testified about hypothetical  
2 available jobs in the national economy. AT 43-61. The ALJ issued a decision denying  
3 Plaintiff's claim for benefits on November 7, 2022. AT 18-36.

4 The ALJ issued a decision finding that Plaintiff was not disabled. AT 18-36. At  
5 step one, the ALJ found that Plaintiff had not engaged in substantial gainful activity since  
6 October 19, 2020. AT 20. At step two, the ALJ determined that Plaintiff had the following  
7 severe impairments: lumbar degenerative disk disease, osteoarthritis, obesity, and  
8 lupus. AT 21. The ALJ found other impairments to be non-severe. *Id.* Particularly  
9 relevant here, the ALJ found that Plaintiff's medically determinable mental impairment of  
10 bipolar disorder "d[id] not cause more than minimal limitation in the [Plaintiff's] ability to  
11 perform basic mental work activities and [is] therefore nonsevere." *Id.* at 25. At step  
12 three, the ALJ found Plaintiff did not have an impairment or combination of impairments  
13 that meets or medically equals the severity of one of the listed impairments in 20 C.F.R.  
14 Part 404, Subpart P, Appendix 1. *Id.* at 26 (citing 20 C.F.R. §§ 416.920(d), 416.925,  
15 416.926).

16 The ALJ then found Plaintiff had the residual functional capacity to perform light  
17 work (20 C.F.R. § 416.967(b)). *Id.* at 27.

18 She can lift 20 pounds occasionally and 10 pounds  
19 frequently. She can stand and/or walk for four hours in an  
20 eight-hour workday. She can sit for six hours in an eight-hour  
21 workday. She can occasionally push and/or pull with the right  
22 lower extremity. She cannot climb ladders. She can no more  
23 than occasionally stoop, kneel, crouch, crawl, or climb stairs.  
She can frequently but not constantly handle and finger  
bilaterally. She cannot work around hazards such as  
unprotected heights or around dangerous machinery. She  
can no more than occasionally be exposed to cold, wetness,  
or vibration.

24 AT 27. Based on the residual functional capacity, the ALJ determined at step four that  
25 Plaintiff was incapable of performing past relevant work. AT 34. The vocational expert  
26 testified that Plaintiff had the following past work: companion, bus driver, tractor trailer  
27 truck driver, and home attendant. *Id.* However, at step five, the ALJ found Plaintiff  
28 capable of performing other jobs in the national economy, including: (1) marker;

(2) inspector/hand packager; and (3) production assembler. AT 35.

Plaintiff requested review by the Appeals Council, which was denied, making the ALJ's decision the final decision of the Commissioner, on October 31, 2023. AT 1-7.

Plaintiff filed this action in district court requesting judicial review, and the parties filed cross-motions for summary judgment. (ECF Nos. 1, 16, 19.)

### III. DISCUSSION

Plaintiff filed a motion for summary judgment (ECF No. 16) on June 26, 2024, and filed an amended motion for summary judgment (ECF No. 17) on July 1, 2024. Both motions were filed before Defendant filed its cross-motion, and Defendant had an opportunity to respond to both motions. See Def. MSJ at 2 (ECF No. 19). Accordingly, the Court will consider both of Plaintiff's motions.

#### A. Plaintiff's Submission of Records Outside the Administrative Transcript

The court may not consider evidence outside of the administrative transcript when deciding to affirm, modify, or reverse the ALJ's decision. 42 U.S.C. § 405(g) ("The court shall have power to enter, upon the pleadings and *transcript of the record*, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security... ." (emphasis added)); *Sfetku v. Commissioner of Social Security Administration*, 2019 WL 92499, at \*12 (D. Ariz. Jan. 3, 2019). The court may order additional evidence be taken before the Commissioner only if the new evidence is material and there is good cause for the failure to incorporate the evidence into the record in prior proceeding. 42 U.S.C. § 405(g); see *Mayes v. Massanari*, 276 F.3d 453, 462 (9th Cir. 2001) (stating the new evidence must bear "directly and substantially on the matter in dispute" and there must be a "reasonable possibility" that the evidence would have changed the outcome of the ALJ hearing to be material (citation omitted)); *id.* at 463 (establishing good cause requires demonstrating that new evidence was unavailable earlier). It is the Plaintiff's responsibility to establish the good cause and materiality requirements. See *Orteza v. Shalala*, 50 F.3d 748, 751 (9th Cir. 1995); *Mayes*, 276 F.3d at 462-63.

1 In Plaintiff's first motion, she attaches medical records that do not appear in the  
 2 Administrative Transcript. Pl. MSJ at 11-50 (ECF No. 16). Plaintiff has made no  
 3 argument about why these records are material, why the records were not included in  
 4 the Administrative Transcript, or whether there is good cause for not including these  
 5 records. See Pl. MSJ (ECF No. 16). Accordingly, the Court cannot consider the medical  
 6 records Plaintiff attached to her motion that are not part of the Administrative Transcript.  
 7 See *Mayes*, 276 F.3d at 462-63; *Sfetku*, 2019 WL 92499.

### 8 **B. Plaintiff Does Not Challenge the ALJ Decision**

9 Plaintiff does not articulate clear or discrete legal issues for the Court's  
 10 consideration. Construing Plaintiff's motions liberally, Plaintiff seems to be arguing that  
 11 some of the medical records in the Administrative Transcript were false, and this false  
 12 information was used to determine Plaintiff's case. Pl. MSJ; Pl. Am. MSJ (ECF No. 17);  
 13 see *Bernhardt v. L.A. Cty.*, 339 F.3d 920, 925 (9th Cir. 2003) ("Courts have a duty to  
 14 construe pro se pleadings liberally, including pro se motions as well as complaints.").

15 First, Plaintiff's motion does not allege that the ALJ committed any particular error.  
 16 The Court cannot rule in Plaintiff's favor when no legal argument has been presented.  
 17 See *Turner v. Berryhill*, 2019 WL 560247, at \*4 (E.D. Cal. Feb. 12, 2019) (citing *Hibbs v.*  
 18 *Dep't of Human Resources*, 273 F.3d 844, 873 n.34 (9th Cir. 2011) (finding argument  
 19 too undeveloped to be capable of assessment)). While the Court is required to liberally  
 20 construe a pro se plaintiff's filings, the pro se plaintiff is still required to establish her right  
 21 to relief on the claims asserted. *Rigsbay v. Colvin*, 2016 WL 1268006, at \*3 (E.D. Cal.  
 22 Mar. 30, 2016). Here, Plaintiff states that "there is false and misleading information"  
 23 included in the Administrative Transcript. Pl. MSJ at 1. However, she does not provide  
 24 any legal argument or contest any part of the ALJ's decision. Plaintiff's main argument in  
 25 her motions is that she was never diagnosed or prescribed medication for bipolar  
 26 disorder. *Id.* This argument contrasts with Plaintiff's own allegations of her impairments,  
 27 where she lists that she is "bipolar." AT 77. The ALJ found that the medically  
 28 determinable mental impairments of bipolar disorder "do[es] not cause more than

1 minimal limitation in the [Plaintiff's] ability to perform basic mental work activities and [is]  
2 therefore nonsevere." AT 25. In making this determination, the ALJ found that Plaintiff  
3 had no limitation in understanding, remembering or applying information; no limitation  
4 interacting with others; mild limitation in concentrating, persisting or maintaining pace;  
5 and mild limitation in adapting or managing oneself. AT 25-26. Therefore, even if Plaintiff  
6 did not have bipolar disorder, any error would have been harmless because the ALJ  
7 found minimal limitation from Plaintiff's bipolar disorder. *See Molina v. Astrue*, 674 F.3d  
8 1104, 1111 (9th Cir. 2012); *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir. 2008).  
9 Further, Plaintiff states in her amended motion for summary judgment that she "was not  
10 gravely disabled, displaying or having any symptoms of psychosis, bipolar, or  
11 schizophrenia when" she drove herself to the hospital. Pl. Am. MSJ at 3. Plaintiff's  
12 argument that she does not have bipolar disorder supports the ALJ's decision here.

13 Second, Plaintiff is requesting relief that the Court is unable to provide. Plaintiff  
14 requests that "any false information be redacted from [her] medical history and all  
15 medical databases" (Pl. MSJ at 10), and requests that the Court "reprimand and revoke"  
16 the licenses of two doctors (Pl. Am. MSJ at 5). Throughout her motion, she contests  
17 opinions by various doctors and medical professionals, including Sarbjtt Singh Bhullar,  
18 MD; Martin Ramirez, MD; and Harnek Singh Kahlon, MD (Pl. MSJ at 1, 2), who worked  
19 at Sierra Vista Hospital (AT 496, 501, 506). Plaintiff also contests opinions by Sunita  
20 Saini, NP who worked at Hope Cooperative (AT 369), and Pallavi Rajput, MD who  
21 worked at Mercy San Juan Medical Center (AT 470). Of these individuals, only Sunita  
22 Saini is mentioned in the ALJ opinion. Plaintiff also contests the statements by Craig H.  
23 Morris, MD and Kendrick M. Johnson, MD, who do not appear anywhere in the  
24 Administrative Transcript. Plaintiff is not contesting medical records associated with the  
25 Social Security Administration. The Court does not have the ability to change Plaintiff's  
26 underlying medical records or modify any information contained in a medical database.

#### 27 **IV. CONCLUSION**

28 Because Plaintiff has provided no argument supporting her challenge to the ALJ's

1 decision, and no evidence warranting remand, her motion must be DENIED. *See Turner*,  
2 2019 WL 560247, at \*4-5.

3 **ORDER**

4 Accordingly, the Court ORDERS:

- 5 1. Plaintiff's motions for summary judgment (ECF No. 16, 17) are DENIED;  
6 2. The Commissioner's cross-motion (ECF No. 19) is GRANTED and judgment is  
7 entered for the Commissioner; and  
8 3. The Clerk of the Court is directed to CLOSE this case.

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10 Dated: March 11, 2025

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12 CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

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